

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 2096**

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**Introduced by Assembly Member Bass**

**(Coauthors: Assembly Members Berg, Brownley, Dymally, Evans, Galgiani, Hancock, Horton, Jones, Lieber, Ma, Maze, Portantino, and Villines)**

February 19, 2008

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An act to amend ~~Section 362.05~~ *Sections 362.05 and 727* of the Welfare and Institutions Code, relating to dependent children.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2096, as amended, Bass. Foster children: extracurricular activities.

Existing law provides that every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. Existing law requires caregivers, as defined, to use a reasonable and prudent parent standard, as defined, in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities.

*Existing law provides that a minor who has been found to have violated a law or ordinance may be adjudged a ward of the court, and the court may make any and all reasonable orders for the care of the minor.*

*This bill would, with respect to dependent children, require group home administrators and facility managers to apply the reasonable and prudent parent standard when dealing with children in their care.*

*With respect to wards of the juvenile court, the bill would provide that every ward under the supervision of the probation department is entitled to participate in, and would authorize both group home providers and caregivers to give permission for a child residing in foster ward who is in their care to participate in, age-appropriate extracurricular, enrichment, and social activities. The bill would require group home providers and caregivers, before giving permission, to use the a reasonable and prudent parent standard, as described, in making that determination regarding a foster child's ward's participation in those activities. The bill would also require them to take reasonable steps to determine the appropriateness of the activity, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 362.05 of the Welfare and Institutions  
2     Code is amended to read:  
3     362.05. (a) Every child adjudged a dependent child of the  
4     juvenile court shall be entitled to participate in age-appropriate  
5     extracurricular, enrichment, and social activities. No state or local  
6     regulation or policy may prevent or create barriers to participation  
7     in those activities. Each state and local entity shall ensure that  
8     private agencies that provide foster care services to dependent  
9     children have policies consistent with this section and that those  
10    agencies promote and protect the ability of dependent children to  
11    participate in age-appropriate extracurricular, enrichment, and  
12    social activities. Caregivers, as defined in paragraph (1) of  
13    subdivision (a) of Section 362.04, and group home providers shall  
14    use a reasonable and prudent parent standard, as defined in  
15    paragraph (2) of subdivision (a) of Section 362.04, in determining  
16    whether to give permission for a child residing in foster care to  
17    participate in extracurricular, enrichment, and social activities.  
18    ~~The caretaker~~ Group home providers and caregivers shall take  
19    reasonable steps to determine the appropriateness of the activity  
20    in consideration of the child's age, maturity, and developmental  
21    level.  
22    (b) Group home administrators and facility managers shall  
23    apply the reasonable and prudent parent standard when dealing  
24    with children in their care. In the absence of the group home

1 *administrator and facility manager; a responsible staff member*  
 2 *designated by the group home administrator or facility manager*  
 3 *shall apply the reasonable and prudent parent standard. He or*  
 4 *she may consult with social work staff at the group home regarding*  
 5 *the application and use of the reasonable and prudent parent*  
 6 *standard. The decision made by using the reasonable and prudent*  
 7 *parent standard shall not be inconsistent with any court order.*

8 *SEC. 2. Section 727 of the Welfare and Institutions Code is*  
 9 *amended to read:*

10 727. (a) When a minor is adjudged a ward of the court on the  
 11 ground that he or she is a person described by Section 601 or 602,  
 12 the court may make any and all reasonable orders for the care,  
 13 supervision, custody, conduct, maintenance, and support of the  
 14 minor, including medical treatment, subject to further order of the  
 15 court. To facilitate coordination and cooperation among  
 16 government agencies, the court may, after giving notice and an  
 17 opportunity to be heard, join in the juvenile court proceedings any  
 18 agency that the court determines has failed to meet a legal  
 19 obligation to provide services to the minor. However, no  
 20 governmental agency shall be joined as a party in a juvenile court  
 21 proceeding in which a minor has been ordered committed to the  
 22 Department of the Youth Authority. In any proceeding in which  
 23 an agency is joined, the court shall not impose duties upon the  
 24 agency beyond those mandated by law. Nothing in this section  
 25 shall prohibit agencies which have received notice of the hearing  
 26 on joinder from meeting prior to the hearing to coordinate services  
 27 for the minor.

28 The court has no authority to order services unless it has been  
 29 determined through the administrative process of an agency that  
 30 has been joined as a party, that the minor is eligible for those  
 31 services. With respect to mental health assessment, treatment, and  
 32 case management services pursuant to Chapter 26.5 (commencing  
 33 with Section 7570) of Division 7 of Title 1 of the Government  
 34 Code, the court's determination shall be limited to whether the  
 35 agency has complied with that chapter.

36 In the discretion of the court, a ward may be ordered to be on  
 37 probation without supervision of the probation officer. The court,  
 38 in so ordering, may impose on the ward any and all reasonable  
 39 conditions of behavior as may be appropriate under this disposition.  
 40 A minor who has been adjudged a ward of the court on the basis

1 of the commission of any of the offenses described in subdivision  
2 (b) or paragraph (2) of subdivision (d) of Section 707, Section 459  
3 of the Penal Code, or subdivision (a) of Section 11350 of the Health  
4 and Safety Code, shall not be eligible for probation without  
5 supervision of the probation officer. A minor who has been  
6 adjudged a ward of the court on the basis of the commission of  
7 any offense involving the sale or possession for sale of a controlled  
8 substance, except misdemeanor offenses involving marijuana, as  
9 specified in Chapter 2 (commencing with Section 11053) of  
10 Division 10 of the Health and Safety Code, or of an offense in  
11 violation of Section 12220 of the Penal Code, shall be eligible for  
12 probation without supervision of the probation officer only when  
13 the court determines that the interests of justice would best be  
14 served and states reasons on the record for that determination.

15 In all other cases, the court shall order the care, custody, and  
16 control of the minor to be under the supervision of the probation  
17 officer who may place the minor in any of the following:

18 (1) The approved home of a relative, or the approved home of  
19 a nonrelative, extended family member as defined in Section 362.7.  
20 When a decision has been made to place the minor in the home of  
21 a relative, the court may authorize the relative to give legal consent  
22 for the minor's medical, surgical, and dental care and education  
23 as if the relative caretaker were the custodial parent of the minor.

24 (2) A suitable licensed community care facility.

25 (3) With a foster family agency to be placed in a suitable  
26 licensed foster family home or certified family home which has  
27 been certified by the agency as meeting licensing standards.

28 (4) *Every ward under the supervision of the probation*  
29 *department residing in a placement as defined in paragraphs (1)*  
30 *to (3), inclusive, shall be entitled to participate in age-appropriate*  
31 *extracurricular, enrichment, and social activities. Each state and*  
32 *local entity shall ensure that private agencies that provide foster*  
33 *care services to wards have policies consistent with this section*  
34 *and that those agencies promote and protect the ability of wards*  
35 *to participate in age-appropriate extracurricular, enrichment, and*  
36 *social activities. A group home provider or caregiver as described*  
37 *in paragraphs (1) to (3), inclusive, may give permission for a ward*  
38 *who is in his or her care to participate in those activities. Before*  
39 *giving that permission, group home providers and caregivers shall*  
40 *use a "reasonable and prudent parent standard" characterized*

1 *by careful and sensible parental decisions that maintain the child's*  
2 *health, safety, and best interest. Group home providers and*  
3 *caregivers shall take reasonable steps to determine the*  
4 *appropriateness of the activity taking into consideration the child's*  
5 *age, maturity, and developmental level.*

6 (b) When a minor has been adjudged a ward of the court on the  
7 ground that he or she is a person described in Section 601 or 602  
8 and the court finds that notice has been given in accordance with  
9 Section 661, and when the court orders that a parent or guardian  
10 shall retain custody of that minor either subject to or without the  
11 supervision of the probation officer, the parent or guardian may  
12 be required to participate with that minor in a counseling or  
13 education program including, but not limited to, parent education  
14 and parenting programs operated by community colleges, school  
15 districts, or other appropriate agencies designated by the court.

16 (c) The juvenile court may direct any and all reasonable orders  
17 to the parents and guardians of the minor who is the subject of any  
18 proceedings under this chapter as the court deems necessary and  
19 proper to carry out subdivisions (a) and (b), including orders to  
20 appear before a county financial evaluation officer and orders  
21 directing the parents or guardians to ensure the minor's regular  
22 school attendance and to make reasonable efforts to obtain  
23 appropriate educational services necessary to meet the needs of  
24 the minor.

25 When counseling or other treatment services are ordered for the  
26 minor, the parent, guardian, or foster parent shall be ordered to  
27 participate in those services, unless participation by the parent,  
28 guardian, or foster parent is deemed by the court to be inappropriate  
29 or potentially detrimental to the child.

30 ~~SECTION 1. Section 362.05 of the Welfare and Institutions~~  
31 ~~Code is amended to read:~~

32 ~~362.05. Every child adjudged a dependent child of the juvenile~~  
33 ~~court shall be entitled to participate in age-appropriate~~  
34 ~~extracurricular, enrichment, and social activities. No state or local~~  
35 ~~regulation or policy may prevent or create barriers to participation~~  
36 ~~in those activities. Each state and local entity shall ensure that~~  
37 ~~private agencies that provide foster care services to dependent~~  
38 ~~children have policies consistent with this section and that those~~  
39 ~~agencies promote and protect the ability of dependent children to~~  
40 ~~participate in age-appropriate extracurricular, enrichment, and~~

1 social activities. Group home providers and caregivers, as defined  
2 in paragraph (1) of subdivision (a) of Section 362.04, are authorized  
3 to give permission for a child residing in foster care to participate  
4 in extracurricular, enrichment, and social activities. Before giving  
5 such permission, group home providers and caregivers shall use  
6 a reasonable and prudent parent standard, as defined in paragraph  
7 (2) of subdivision (a) of Section 362.04, in determining whether  
8 to give permission for a child residing in foster care to participate  
9 in extracurricular, enrichment, and social activities. Group home  
10 providers and caregivers shall take reasonable steps to determine  
11 the appropriateness of the activity in consideration of the child's  
12 age, maturity, and developmental level.